UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,141	12/30/2003	John D. Mata	127P105USU1	3840
23322 IPLM GROUP,	7590 08/03/2010 . P.A.		EXAMINER	
POST OFFICE	BOX 18455		NGUYEN, DINH Q	
MINNEAPOLI	5, MIN 55418		ART UNIT	PAPER NUMBER
			3752	
			MAIL DATE	DELIVERY MODE
			08/03/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Communication		Арр	pplication No. Applicant(s)					
		10/7	'49,141	MATA ET AL.	MATA ET AL.			
Office Action Summary			niner	Art Unit				
		Dinh	Q. Nguyen	3752				
Period fo	The MAILING DATE of this commun or Reply	ication appears o	on the cover sheet	with the correspondence a	ddress			
A SH WHIC - Exter after - If NC - Failu Any r	ORTENED STATUTORY PERIOD F CHEVER IS LONGER, FROM THE M Issions of time may be available under the provisions SIX (6) MONTHS from the mailing date of this comr period for reply is specified above, the maximum st re to reply within the set or extended period for reply eply received by the Office later than three months and patent term adjustment. See 37 CFR 1.704(b).	IAILING DATE C of 37 CFR 1.136(a). Ir nunication. atutory period will apply will, by statute, cause t	OF THIS COMMUN n no event, however, may and will expire SIX (6) Mu he application to become	NICATION. a reply be timely filed ONTHS from the mailing date of this ABANDONED (35 U.S.C. § 133).				
Status								
1) 又	Responsive to communication(s) file	ed on 07 June 20	010					
•	·	2b)⊡ This actio						
′=		<i>,</i> —		atters, prosecution as to th	ne merits is			
٥,١	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.							
Dispositi	on of Claims							
4)⊠	Claim(s) <u>1-17</u> is/are pending in the a	application.						
•	4a) Of the above claim(s) <u>6,9,10,16 and 17</u> is/are withdrawn from consideration.							
	5) Claim(s) is/are allowed.							
	Claim(s) <u>1-5,7,8 and 11-15</u> is/are re	iected.						
·	Claim(s) is/are objected to.	,						
•	Claim(s) are subject to restrict	ction and/or elect	ion requirement.					
Applicati	on Papers							
	The specification is objected to by th	e Evaminer						
-	The drawing(s) filed on is/are:		or h)□ objected t	o by the Examiner				
.0/	Applicant may not request that any obje		· -	-				
	Replacement drawing sheet(s) including				CER 1 121(d)			
11)	The oath or declaration is objected to		•		• •			
Priority u	ınder 35 U.S.C. § 119							
12)□	Acknowledgment is made of a claim	for foreign priorit	tv under 35 U.S.C	. § 119(a)-(d) or (f).				
	12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:							
/1	1. ☐ Certified copies of the priority documents have been received.							
	2. Certified copies of the priority documents have been received in Application No							
	3. Copies of the certified copies of the priority documents have been received in this National Stage							
	application from the International Bureau (PCT Rule 17.2(a)).							
* See the attached detailed Office action for a list of the certified copies not received.								
			·					
Attachmen	t(s)							
_	e of References Cited (PTO-892)		4) Interview	v Summary (PTO-413)				
2) Notic	e of Draftsperson's Patent Drawing Review (F	PTO-948)	Paper N	o(s)/Mail Date				
_	nation Disclosure Statement(s) (PTO/SB/08) r No(s)/Mail Date		6) Other:	f Informal Patent Application				

Application/Control Number: 10/749,141 Page 2

Art Unit: 3752

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-5, 7, 8, 11-15 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5-10 of copending Application No. 11/668,768 in view of Miller et al.

Claims 5-10 of the '768 application discloses all the limitations of the claims except for extruding a bead of material on the substrate. However, Miller et al. teaches a method of making an irrigation hose 146 with extruding a bead 110 on the substrate 136 (see figure 4). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of claims 5-10 of the '768 application with a step of extruding a bead of material on the substrate as suggested by Miller et al. Doing so

Application/Control Number: 10/749,141 Page 3

Art Unit: 3752

would provide a way to produce the irrigation at less cost and higher production speeds (see column 1, lines 10-12).

This is a provisional obviousness-type double patenting rejection.

Response to Arguments

- 3. Applicant's arguments filed June 07, 2010 have been fully considered but they are not persuasive. The examiner maintaining the provisional obviousness-type double patenting rejection of the previous Office Action, since no Terminal Disclaimer has been filed.
- 4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

Application/Control Number: 10/749,141 Page 4

Art Unit: 3752

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on 571-272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dinh Q Nguyen/ Primary Examiner, Art Unit 3752

dqn